

SENTENCING MINUTESDate: 10/14/2022

Judge: T.S. ELLIS III
 Reporter: R. Stonestreet
 Time: 01:39 p.m. – 03:02 p.m.
03:25 p.m. – 04:10 p.m.
(02:08)
 Case Number: 1:20-cr-00178-TSE-1

UNITED STATES OF AMERICA

Counsel/Govt: Heidi Gesch

v.

CAPRICE FOSTERCounsel/Deft: Nina Ginsberg

- Gov't objects to the PO failure to apply the 2-level aggravating role enhancement under USSG § 3B1.1(c) and request a sentence w/n the g/l range.
- Defense objects to the three (3) 2-level enhancements: (i) Unauthorized use of identification pursuant to USSG § 2B1.1(b)(11)(C); (ii) Sophisticated mean pursuant to USSG § 2B1.1(b)(10)(C); and (iii) Abuse of Trust pursuant to USSG § 2B1.3(c) and argues for a sentence of 24 months w/3 SR year term.
- The Court overrules all 4 objections and adopts the PSR w/o exceptions.

SENTENCING GUIDELINES:Offense Level: 26Criminal History: IVImprisonment Range: 92 to 115 monthsSupervised Release Range: 1 to 3 yearsFine Range: \$567,418Restitution \$283,709Special Assessment \$100**JUDGMENT OF THE COURT:**

- BOP for 80 months with credit for time served as computed by the BOP pursuant to statute.
- Supervised Release for 3 Years, with special conditions: participate in mental health treatment.
- Restitution of \$283,709 due immediately/ monthly installments of \$100 to begin w/in 60 days of release from custody; interest waived.
- No punitive fines/costs of incarceration/costs of supervision imposed.
- Special Assessment \$100
- Defendant advised she may have the right to appeal.
- Court rules defendant to remain at ADC until further order of the Court.
- Consent Order of Forfeiture and Restitution Order entered in open court.

RECOMMENDATIONS to BOP:

X Dft. To be designated to: a facility at Alderson, WV to accommodate her medical needs and to be near her family.
 _____ Dft. designated to facility to participate in ICC (Boot Camp) type program
 _____ Dft. to participate in the Residential Drug Abuse Treatment Program (RDAP)
 _____ Other: _____

Deft: (X) Remanded () Cont'd on Bond to Self-Surrender () Referred to USPO () Immediate Deportation